

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 19931 of 2005

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Dated:09.09.2005

Between:

Potluri Rukmini Kumari, W/o. Late Nageswar Rao,
R/o. Kovelmudivari Street, Suryapet, Vijayawada.
Rep.by their Power Of Attorney Holder Vemulapalli Surendranath Benerji, S/o.

Late Nagabushanam, 65 years, and another.

..... PETITIONERS

AND

Visakhapatnam Municipal Corporation, Visakhapatnam, Rep.by its
Commissioner.

.....RESPONDENT

ORDER:

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The first petitioner claims to be the absolute owner of house plot bearing No.9, admeasuring 234 square yards, whereas the second petitioner claims to be the owner of plot No.21 admeasuring about 130.436 square metres. This land is comprised in TS No.5/3 of Pedawaltair Village situated to the north of VIP Road within the limits of Municipal Corporation of Visakhapatnam. In this writ petition they allege that the officials of the Municipal Corporation marked a portion of the petitioners' property for the purpose of road widening. Apprehending the action on the part of the respondent in contravention of the provisions of Sections 145, 146 and 147 of the Hyderabad Municipal Corporations Act, 1955, as applicable to the Visakhapatnam Corporation, this writ petition is filed.

Heard the learned Standing Counsel for the respondent – Municipal Corporation.

In **P.Lakshmana Rao v. Executive Officer**, a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. Having regard to the decision of the Division Bench, I have considered similar issue in a number of writ petitions and culled out various principles of law to be followed by the Government while acquiring/utilizing the private land for road widening. The principles were reiterated by my learned brother, Sri Justice B.Sudershan Reddy in **M.Madhavi Latha v. Rajendranagar Municipality**. The principles laid down by the Division

Bench are as follows.

(1). Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

(2). If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections, if any, from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

(3). In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

(4). If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

(5). In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R&B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

(6). If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.

The writ petition is disposed of as above directing maintenance of status quo as on today. No costs.

(V.V.S.RAO, J)

09.09.2005

Note: Issue C.C by tomorrow.

B/o.

VS